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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/791,967 | 03/03/2004 | Debashis Talukdar | 024777.0140PTUS | 5105 |

7590
IP Department
Patton Boggs, LLP
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| EXAMINER |
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NGUYEN, HANH N

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| ART UNIT | PAPER NUMBER |
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2616

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04/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/791,967 | Applicant(s) TALUKDAR ET AL. | |
| | Examiner Hanh Nguyen | Art Unit 2616 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Response filed on 1/28/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 20-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-19 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to Amendment filed on 1/28/08, Applicant select claims 1-19 and withdraw claims 20-23. Claims 1-19 are examined in view of the following Art rejection. The 101 statutory rejection of claim 8 is dropped.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, what is referred as “ a plurality of information sets” on line 7 ?

In claim 11, what is meant by “ the size of communication” ? Is “ the size of communication “ meant “ the size of the buffer” ?

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Amico et al. (US pat. 6,889,339 B1) as applied to claims 1, 8, 17 above, and further in view of Nam et al. (US Pat. 6,138,163).

Applicant is noted in preamble of claim 1 that “preserving transient data” is not shown in the body of claim 1. Examiner considers “list of telephone numbers” in fig.4 of D’Amico as “Data request command” since data request command includes incoming calls, call volume as shown in claims 6.

In claims 1, 2, 3, 4, 6, 8, 10, 17,18, D’Amico et al. discloses a method comprising establishing the communications link with the switch (see col.6, lines 3-6; fig.1, network testing 110 establishes a telnet connection with ASAM 141); without user intervention, executing in batch a plurality of data-request commands (see fig.4, steps 401 & 402, col.5, lines 35-45; and col.4, lines 50-55; network testing 110 performs batch testing mode by receiving from database 121 (input file) a list of telephone numbers (referencing an input file including data-request command; claim 8), queries from database 120 for equipment serving the telephone number); receiving a plurality of information sets in response to the plurality of the data- request commands (fig.4, sstep 404, receiving test result in response to the testing); and automatically parsing the plurality of information sets to produce an output file, the output file including at least a portion of data from the plurality of information sets(fig.4, step 403; col.5, lines 44-47;network testing 110 tests the list of equipments and write the results in database 123), wherein the portion of data is arranged in a format that includes a plurality of rows that respectively correspond to the portions of data (see col.5, lines 50-60; the testing results is written in standard report arranged in group of data). With regard to claim 8, D’Amico et al. discloses the steps above are processed by computer program

instructions stored in a computer readable media and executed by a processor (see fig.2 col.4, lines 40-46).

D'Amico et al. does not disclose increasing the size of a communications buffer that is associated with establishing a communications link with the switch to a predetermined buffer size;

Nam et al. discloses in fig.4 a user requests a service browser (step 401), at step 406, traffic to video server is measured. At step 407, buffer size is determined based on service request bandwidth, the measured traffic. At step 408, buffer is allocated based on the determined buffer size and the video connection is established at step 409 (see col.5, lines 30-45). Therefore, it would have been obvious to implement the buffer of Nam et al. into the memory 209 of D'Amico to adapt the buffer size accordance to the the number of data request command such as the number of calls. The combination would prevent call congestion.

In claims 5, 12, 19, D'Amico discloses data request command includes command to retrieve operational-measurement data from the switch (fig.4, step 402, network testing 110 queries periodically database 120 for the equipment).

In claim 9, D'Amico does not disclose monitor the size of buffer to a size that prevent overflow when receiving data from network element. Nam disclose the buffer is monitored its error rate by comparing the buffer size with received data size. If the size of received data exceeds the buffer size , it is informed to stream controller (see fig.3, col.5, lines 15-25. Therefore, it would have been obvious to prevent the overflow in the buffer of Nam when implementing the buffer into the memory of D'Amico. The

motivation is to prevent overflow while receiving data request command from network element.

In claim 11, further from the rejection of D'Amico, Nam discloses the requested bandwidth is 2Mbps(se col.4, lines 50-55). Therefore, it is well-known in the art that the size of communications can be adjusted to 500kb instead of 2Mbps.

In claims 13, 14, 15, 16, D'Amico discloses, in Fig.1, col.3, lines 25-35, output file cause the processor to present raw data in display device (see fig.1, col.3, lines 25-27; user interface computer 130), spread sheet program (*), graphical format (**), web-base format (see Fig.1, present a Web-base interface to computer 130). Even though the spread sheet program and Graphical format are not explicilty disclosed in D'Amico, but in col.5, lines 45-55, the test results is written into database 123 in a form of standard report. It is well-known in the art the test result in a standard report can be in a form of spread sheet program displayed in a GUI.

Allowable Subject Matter

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

McNeely et al. (US Pat. 7,117,411 B2);

Pugaczewski et al. (US pat. 6,894,980 B1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Nguyen whose telephone number is 571 272 3092. The examiner can normally be reached on Monday-Thursday from 8:00 to 4:30. The examiner can also be reached on alternate.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild, can be reached on 571 272 2092. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Hanh Nguyen/
Primary Examiner, Art Unit 2616